

**DEPARTMENT OF PARKS AND RECREATION
OFF-HIGHWAY MOTOR VEHICLE RECREATION DIVISION
GRANTS AND COOPERATIVE AGREEMENTS PROGRAM REGULATIONS**

FINAL STATEMENT OF REASONS

UPDATE OF INITIAL STATEMENT OF REASONS

Pursuant to Government Code 11346.9(a)(1), the Department is updating the Initial Statement of Reasons to include amendments not originally identified. A 15-day comment period on the amendment to the Project Agreement General Provisions, as described below, was noticed to the public on October 21, 2010.

Project Agreement General Provisions (U.S. Forest Service Only)(Rev.1/11)

Specific Purpose

This document, incorporated by reference in the Grants and Cooperative Agreements Program regulations, is amended to delete *Section F, Indemnification* in the existing document.

Necessity

The U.S. Forest Service advised the Off-Highway Motor Vehicle Recreation (OHMVR) Division after the Notice of Proposed Rulemaking was published that *Section F, Indemnification* in the Project Agreement General Provisions (U.S. Forest Service Only) was problematic and could jeopardize their ability to enter into cooperative agreements with the OHMVR Division. Legal counsel from both parties have concurred that existing law would take precedence and Section F was unnecessary.

Nonsubstantial Changes

Nonsubstantial changes were made to documents incorporated by reference located in the 2008 Grants and Cooperative Agreements Program Regulations – Appendix (Appendix). All substantive revisions to documents located in the Appendix were made available to the public together with the proposed text of regulations for the written comment periods and the public hearing. The nonsubstantial changes to the Appendix are as follows:

1. The cover of the Appendix is amended to reflect the revision date of the Appendix.
2. The Table of Contents for the Appendix is amended to show revision dates for amended documents.
3. The *Payment Request DPR 364 (2008/2009)* is amended to replace the term "Administrative Costs" with "Indirect Costs". The term "Indirect Costs"

is defined in regulation Section 4970.01(z) and is used consistently throughout the regulations and Appendix.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE 45 DAY COMMENT PERIOD AND PUBLIC HEARING

In accordance with Government Code Section 11346.9(a)(3), comments received during the 45-day comment period and the public hearing are summarized below.

Comment 1

The commenter is concerned the revision to the defined term "Indirect Cost" will inadvertently lead to increased tracking of these expenses. Such a change would eliminate the true intent of "Indirect Costs".

- Craig Beck

Department Response

The Department disagrees with the comment. The revision does not create or impose any additional tracking of "Indirect Costs". The revision eliminates the expectation that anyone charging time to a project is automatically considered to be directly engaged in the project. Thus, a high level administrator far removed from actual project implementation is not an eligible expenditure under the program.

Comment 2

The commenter recommends management expenses be allowed as matching contribution, but not as reimbursable expenses under the grant program.

- Craig Beck

Department Response

The Department disagrees with the comment. Under the existing regulations, any expenditure eligible for reimbursement is also considered eligible as matching contribution. Creating different criteria for the two categories would be unnecessarily cumbersome and difficult to administer.

Comment 3

The commenter contends the role of the U.S. Forest Service Regional Office is unclear. This uncertainty deprives the Regional Office of applying for various grants and denies the agency and public of certain benefits, such as cost savings through economies of scale. The commenter suggests the regulations explicitly state that Regional Office will be treated the same as a National Forest.

- Marlene Finley, U.S. Forest Service

Department Response

The Department is taking no action on the comment. The Regional Office is specifically identified as an eligible applicant in Section 4970.03(a)(3) of the existing regulations and, as such, is able to apply for funding under any project type.

Comment 4

The commenter expresses disappointment about mixed communication the Regional Office received from the OHMVR Division in regard to an application consisting entirely of guide maps. The commenter further contends that evaluation criteria for Education and Safety projects are biased against maps. The commenter suggests two actions to remedy the situation. The first suggestion is to split the Education and Safety category into two separate categories. The second option is to explicitly allow maps to be funded under the Ground Operations category and the Education category.

- Marlene Finley, U.S. Forest Service

Department Response

The Department is taking no action on the comment. The Department considers treating Education and Safety as a single category to be appropriate and consistent with direction found in Public Resources Code Section 5090.50(b)(4). Regarding the second suggestion, existing regulation section 4970.08(b)(10) indicates that the preparation and publication of maps may be included as part of a related project in any category. At this time, the Department finds the existing regulations adequately allow for funding map projects and does not find it necessary to revise the existing regulations to address this concern.

Comment 5

The commenter addresses coordinator grants, a grant type that was allowed under the Operation and Maintenance category in prior program regulations. The commenter states that coordinator grants allowed applicants to cover "program administration" and the proposed regulations do not allow for such funding under any existing grant categories. The commenter suggests two options to address the issue. The first option is to revise the regulations to explicitly allow program administration grants. The second option is to develop an agreement between the U.S. Forest Service and the OHMVR Division outside the current program

- Marlene Finley, U.S. Forest Service

Department Response

The Department is taking no action on the comment. The Department considers the existing program to be consistent with PRC Section 5090.50 et seq. The second suggestion is outside the proposed rulemaking action.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE 15 DAY COMMENT PERIOD

No comments were received.

ALTERNATIVES DETERMINATION

The Department has determined that no alternative would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

LOCAL MANDATE DETERMINATION

The proposed regulations do not impose any mandate on local agencies or school districts. Participation in the Program is voluntary.